

House Engrossed  
**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

CHAPTER 52

## **HOUSE BILL 2480**

AN ACT

AMENDING SECTIONS 28-9102, 28-9104, 28-9142, 42-6106, 42-6107, 48-5301 AND  
48-5302, ARIZONA REVISED STATUTES; RELATING TO TRANSPORTATION FUNDING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-9102, Arizona Revised Statutes, is amended to  
3 read:

4 28-9102. Formation

5 A. An intergovernmental public transportation authority may be  
6 organized as provided by this section in any county with a population of ~~four~~  
7 TWO hundred thousand persons or less.

8 B. The governing body of one or more incorporated ~~city~~ CITIES or ~~town~~  
9 TOWNS may petition the county board of supervisors to establish an authority  
10 consisting of the area within the incorporated boundary of the municipality  
11 or municipalities.

12 C. If the organizing municipalities are not contiguous, the  
13 unincorporated areas between the organizing municipalities must also be  
14 included in the authority with the approval of the county board of  
15 supervisors. The board of supervisors shall establish the boundaries of the  
16 unincorporated area to be included in the authority.

17 D. Incorporated cities and towns in different counties, each of which  
18 meet the population limit prescribed by subsection A, may petition their  
19 respective county boards of supervisors to establish a joint authority  
20 consisting of the combined areas within their respective municipal boundaries  
21 and including any intervening unincorporated areas in the counties.

22 E. The board of supervisors shall hold at least one hearing on the  
23 petition in one of the petitioning municipalities to determine public support  
24 for the authority and whether establishing the authority would be in the  
25 public interest. In the case of petitioning municipalities in different  
26 counties, the board of supervisors of each county shall hold separate  
27 hearings and each board shall make its determination separately.

28 F. If the board of supervisors determines that establishing the  
29 authority would serve the public convenience, necessity, safety or welfare,  
30 the board of supervisors shall establish the authority by a resolution that  
31 includes a description of the boundaries of the authority. In the case of an  
32 authority in different counties, the county boards of supervisors shall  
33 establish the authority by an intergovernmental agreement.

34 G. If an authority is established under this chapter, any university  
35 THAT IS under the jurisdiction of the Arizona board of regents AND that is  
36 located in a municipality in the authority may become a member of the  
37 authority by intergovernmental agreement.

38 Sec. 2. Section 28-9104, Arizona Revised Statutes, is amended to read:

39 28-9104. Dissolution

40 A. A majority of the board of directors of an authority may propose  
41 that the authority be dissolved, but only if all contractual obligations and  
42 debts of the authority are satisfied and if another governmental entity or  
43 entities accept dedication of all authority property and obligations.

1           B. After a hearing, the board shall adopt by resolution a plan of  
2 termination to be executed within a stated period of time after it is  
3 adopted.

4           C. The growth of a county population to more than ~~four~~ TWO hundred  
5 thousand persons does not cause the dissolution of an authority by operation  
6 of law.

7           Sec. 3. Section 28-9142, Arizona Revised Statutes, is amended to read:  
8 28-9142. Public transportation authority fund

9           A. The authority treasurer shall maintain a public transportation  
10 authority fund consisting of all monies received by the authority including:

11           1. Monies appropriated or paid to the authority from municipalities,  
12 member universities and the county.

13           2. Monies received by the authority from the federal government or  
14 this state.

15           3. Grants, gifts and other donations from any source.

16           4. Revenues collected by the authority as fares and other proceeds  
17 from operating the public transportation system.

18           5. MONIES RECEIVED FROM THE COUNTY TRANSPORTATION EXCISE TAX AS  
19 PROVIDED IN SECTION 42-6106.

20           B. Monies in the fund may be used for any lawful purpose of the  
21 authority.

22           C. The authority treasurer may invest any unexpended monies in the  
23 fund as provided in title 35, chapter 2, including in the local government  
24 investment pool, if authorized by the state treasurer. Interest and other  
25 income from investments shall be credited to the fund.

26           D. The authority treasurer shall invest the monies to mature at the  
27 times when the fund assets will be required for the purposes of this article.  
28 If the liquid assets in the fund become insufficient to meet the authority's  
29 obligations, the board of directors shall:

30           1. Direct the authority treasurer to liquidate sufficient securities  
31 to meet all of the current obligations.

32           2. Immediately notify the auditor general of the insufficiency. The  
33 auditor general shall investigate and audit the circumstances surrounding the  
34 depletion of the fund and report the findings to the board.

35           E. The board shall cause an annual audit to be conducted of the fund  
36 by an independent certified public accountant within one hundred twenty days  
37 after the end of the fiscal year. The board shall immediately file a  
38 certified copy of the audit with the auditor general. The auditor general  
39 may make further audits and examinations as necessary, but if the auditor  
40 general takes no official action within thirty days after the audit is filed,  
41 the audit is considered to be sufficient. The board shall pay all fees and  
42 costs of the certified public accountant and auditor general under this  
43 subsection from the fund.

1       Sec. 4. Section 42-6106, Arizona Revised Statutes, is amended to read:  
2       42-6106. County transportation excise tax; county population  
3               requirements

4       A. In a county with a population exceeding ~~four~~ TWO hundred thousand  
5 but fewer than one million two hundred thousand persons, if approved by the  
6 qualified electors voting at a countywide election, the regional  
7 transportation authority in the county shall levy and the department shall  
8 collect a transportation excise tax up to the rate authorized by this section  
9 in addition to all other taxes. A COUNTY WITH A POPULATION OF FOUR HUNDRED  
10 THOUSAND OR FEWER PERSONS BUT MORE THAN TWO HUNDRED THOUSAND PERSONS SHALL  
11 NOT LEVY A TAX UNDER BOTH THIS SECTION AND SECTION 42-6107.

12       B. The tax shall be levied and collected:

13       1. At a rate of not more than ten per cent of the transaction  
14 privilege tax rate prescribed by section 42-5010, subsection A in effect on  
15 January 1, 1990:

16       (a) To each person engaging or continuing in the county in a business  
17 taxed under chapter 5, article 1 of this title.

18       (b) Except that for the purposes of this paragraph with respect to the  
19 prime contracting classification under section 42-5075, the gross proceeds of  
20 sales or gross income that is deductible pursuant to section 42-5075,  
21 subsection B, paragraph 8 or pursuant to section 42-5061, subsection A,  
22 paragraph 27 for sales to a contractor who is exempt under section 42-5075,  
23 subsection B, paragraph 8 shall be included in the tax base for purposes of  
24 this paragraph.

25       2. In the case of persons subject to the tax imposed under section  
26 42-5352, subsection A, at a rate of not more than .305 cents per gallon of  
27 jet fuel sold.

28       3. On the use or consumption of electricity or natural gas by retail  
29 electric or natural gas customers in the county who are subject to use tax  
30 under section 42-5155, at a rate equal to the transaction privilege tax rate  
31 under paragraph 1 applying to persons engaging or continuing in the county in  
32 the utilities transaction privilege tax classification.

33       C. Any subsequent reduction in the transaction privilege tax rate  
34 prescribed by chapter 5, article 1 of this title shall not reduce the tax  
35 which is approved and collected as prescribed in this section. The  
36 department shall collect the tax at a variable rate if the variable rate is  
37 specified in the ballot proposition. The department shall collect the tax at  
38 a modified rate if approved by a majority of the qualified electors voting.

39       D. The net revenues collected under this section:

40       1. IN COUNTIES WITH A POPULATION EXCEEDING FOUR HUNDRED THOUSAND BUT  
41 FEWER THAN ONE MILLION TWO HUNDRED THOUSAND PERSONS shall be deposited in the  
42 regional transportation fund pursuant to section 48-5307.

43       2. IN COUNTIES WITH A POPULATION OF FOUR HUNDRED THOUSAND OR FEWER  
44 PERSONS BUT MORE THAN TWO HUNDRED THOUSAND PERSONS, SHALL BE DEPOSITED IN THE  
45 PUBLIC TRANSPORTATION AUTHORITY FUND PURSUANT TO SECTION 28-9142 OR THE

1 REGIONAL TRANSPORTATION FUND PURSUANT TO SECTION 48-5307 OR SHALL BE  
2 ALLOCATED BETWEEN BOTH FUNDS.

3 E. The tax shall be levied under this section beginning January 1 or  
4 July 1, whichever date occurs first after approval by the voters, and may be  
5 in effect for a period of not more than twenty years.

6 Sec. 5. Section 42-6107, Arizona Revised Statutes, is amended to read:

7 42-6107. County transportation excise tax for roads; counties  
8 with population of four hundred thousand or less

9 A. If a majority of the qualified electors voting at a countywide  
10 special election, or a majority of the qualified electors voting on the  
11 ballot proposition at a general election, approves the transportation excise  
12 tax, a county with a population of four hundred thousand or fewer persons  
13 shall levy and the department shall collect a tax:

14 1. At a rate of not more than ten per cent of the transaction  
15 privilege tax rate as prescribed by section 42-5010, subsection A applying,  
16 as of January 1, 1990, to each person engaging or continuing in the county in  
17 a business taxed under chapter 5, article 1 of this title.

18 2. In the case of persons subject to the tax imposed under section  
19 42-5352, subsection A, at a rate of not more than .305 cents per gallon of  
20 jet fuel sold.

21 3. On the use or consumption of electricity or natural gas by retail  
22 electric or natural gas customers in the county who are subject to use tax  
23 under section 42-5155, at a rate equal to the transaction privilege tax rate  
24 under paragraph 1 applying to persons engaging or continuing in the county in  
25 the utilities transaction privilege tax classification. If a majority of the  
26 qualified electors in the county approved the transportation excise tax under  
27 this section before 1998, a tax under this paragraph may be approved by  
28 resolution adopted by a majority of the board of supervisors.

29 B. A COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND OR FEWER  
30 PERSONS BUT MORE THAN TWO HUNDRED THOUSAND PERSONS SHALL NOT LEVY A TAX UNDER  
31 BOTH THIS SECTION AND SECTION 42-6106.

32 ~~B.~~ C. The net revenues collected under this section within a county  
33 shall be deposited in the county's regional area road fund pursuant to title  
34 28, chapter 17, article 3.

35 ~~C.~~ D. The tax shall be levied under this section beginning January 1  
36 or July 1, whichever date occurs first after approval by the voters, and may  
37 be in effect for a period of not more than twenty years.

38 Sec. 6. Section 48-5301, Arizona Revised Statutes, is amended to read:

39 48-5301. Definitions

40 In this chapter, unless the context otherwise requires:

41 1. "Arterial street or highway" means a street or highway that is used  
42 primarily for through traffic such that vehicular traffic from intersecting  
43 streets and highways is required by law to stop or yield before entering or  
44 crossing the street or highway.

1        2. "Authority" means a regional transportation authority organized  
2 under this chapter.

3        3. "Board" means the board of directors of a regional transportation  
4 authority established pursuant to section 48-5303.

5        4. "Controlled access highway" has the same meaning prescribed in  
6 section 28-601.

7        5. "County" means a county with a population of more than four TWO  
8 hundred thousand but less than one million two hundred thousand persons IN  
9 WHICH A REGIONAL TRANSPORTATION AUTHORITY IS ESTABLISHED PURSUANT TO SECTION  
10 48-5302.

11       6. "Fiscal agent" means a bank or trust company authorized to do  
12 business in this state or the county treasurer as designated by the board.

13       7. "Municipality" means an incorporated city or town.

14       8. "Population" means the population determined in the most recent  
15 United States decennial census or the most recent special census as provided  
16 in section 28-6532.

17       9. "Public transportation" means local transportation of passengers by  
18 means of a public conveyance, including para-transit.

19       Sec. 7. Section 48-5302, Arizona Revised Statutes, is amended to read:  
20 48-5302. Regional transportation authority; establishment

21       A. A regional transportation authority is established in a county with  
22 a population of more than four hundred thousand but less than one million two  
23 hundred thousand persons. THE BOARD OF SUPERVISORS OF A COUNTY WITH A  
24 POPULATION OF FOUR HUNDRED THOUSAND OR FEWER PERSONS BUT MORE THAN TWO  
25 HUNDRED THOUSAND PERSONS MAY ESTABLISH A REGIONAL TRANSPORTATION AUTHORITY IN  
26 THE COUNTY.

27       B. An authority is a public, political, tax levying public improvement  
28 and taxing subdivision of this state and a municipal corporation to the  
29 extent of the powers and privileges conferred by this chapter or granted  
30 generally by the constitution and statutes of this state, including immunity  
31 of its property and the interest income and gain on its bonds from taxation.

32       C. The membership of the authority consists of each municipality in  
33 the county, the county and any other members of the regional council of  
34 governments. The authority may operate in all areas of the county in which  
35 it is organized.

36       D. The executive director of the regional council of governments acts  
37 as the executive director of the authority and serves in that specific role  
38 until replaced at the discretion of the board of the regional council of  
39 governments.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.